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**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

**FILED
HARRISBURG,**

DEC 20 2002

KIM SMITH,	:	
	:	
Plaintiff,	:	
	:	Civil No. 1:01-0817
v.	:	(Judge William W. Caldwell)
JAMES MORGAN, et al.,	:	(Magistrate Judge Malachy E. Mannion) ✓
Defendants.	:	

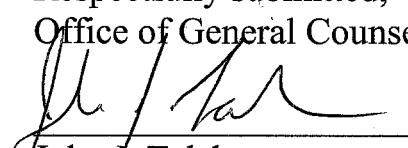
MARY E. D'ANDREA
PCL

**SUPPLEMENTAL SUPPORTING DOCUMENTS TO
THE CORRECTIONS DEFENDANTS' BRIEF
IN OPPOSITION TO PLAINTIFF'S MOTION TO COMPEL**

Defendants' Response to Plaintiff's First Request for
Production of Documents..... Exhibit 2

Unsworn Declaration of Lisa H. Hollibaugh Pursuant to
28 U.S.C. §1746 Exhibit 3

Respectfully submitted,
Office of General Counsel



John J. Talaber
Assistant Counsel
PA Department of Corrections
55 Utley Drive
Camp Hill, PA 17011
(717) 731-0444
Attorney Id. No. 83279

Dated: December 20, 2002

EXHIBIT

tables[®]

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**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

KIM SMITH,

Plaintiff,

v.

JAMES MORGAN, et al.,

Defendants.

Civil No. 1:01-0817

(Judge William W. Caldwell)

(Magistrate Judge Malachy E. Mannion)

**DEFENDANTS' RESPONSE TO PLAINTIFF'S FIRST
REQUEST FOR PRODUCTION OF DOCUMENTS**

The Corrections Defendants, by and through their undersigned attorney, John J. Talaber, Assistant Counsel for the Pennsylvania Department of Corrections, in accordance with Federal Rules of Civil Procedure 26 and 34, hereby respond to Plaintiff's informal Request for Production of Documents as follows:

1. *Please provide a copy of the DOC policy that terminates power in all state institutions RHU.*

1. Response: Objection. Defendants object to the request, pursuant to Fed.R.Civ.P. 34(b) due to Plaintiff's failure to set forth documents to be inspected with reasonable particularity; specifically, Defendants are unsure as to what would constitute "a policy that terminates power in all state institutions RHU." Further,

the Defendants object to this request, pursuant to Fed.R.Civ.P. 26(b)(1), in that this information does not appear to be relevant to the claims raised in the complaint nor does it appear the information is reasonably calculated to lead to the discovery of admissible evidence at time of trial. Further, after reasonable investigation, the Corrections Defendants are not aware of a document responsive to this request.

However, in a good-faith effort to conclude discovery issues in this matter, will produce for Plaintiff's examination and inspection the following items that may be relevant to Plaintiff's request: (1) memorandum from SCI-Smithfield Maintanence Manager Donald Reihart dated January 31, 2002 regarding the Diesel Generator Update; (2) Log Book Excerpts regarding when the SCI-Smithfield Generator did not properly start for the dates June 8, 2000, June 14, 2000, July 20, 2000, July 21, 2000, September 3, 2000, September 17, 2000, September 30, 2000, October 28, 2000, and November 16, 2000.

Additionally, the Corrections Defendants will produce for examination and inspection Standby Generator tests conducted at SCI-Smithfield for the following dates: (1) June 6, 2000; (2) June 13, 2000; (3) June 20, 2000; (4) July 18, 2000; (5) July 25, 2000; (6) July 29, 2000; (7) August 1, 2000 (8) August 9, 2000; (9) August 15, 2000; (10) August 22, 2000; (11) August 29, 2000; (12) September 5, 2000; (13) September 12, 2000; (14) September 19, 2000; (15) October 3, 2000; (16) October 7, 2000; (17) October 10, 2000; (18) October 17, 2000; (19) October

24, 2000; (20) October 31, 2000; (21) November 7, 2000; (22) November 14, 2000; (23) November 21, 2000; (24) November 28, 2000; (25) December 5, 2000; (26) December 12, 2000; (27) December 16, 2000; (28) January 2, 2001; (29) January 9, 2001; (30) January 13, 2001; (31) January 16, 2001; (32) January 23, 2001; (33) January 30, 2001; (34) February 6, 2001; (35) February 13, 2001; (36) February 21, 2001; and (37) February 27, 2001. The Corrections Defendants will produce for examination and inspection an excerpt from SCI-Smithfield employee Paul Hoffman's computer records for the period of 8/29/00 to 5/24/01 regarding maintenance concerns.

Plaintiff must initiate this process by submitting an inmate request to the Litigation Coordinator at SCI-Coal Township, Kandis Dascani. Plaintiff, at the meeting with Ms Dascani or her designee, will have the option to obtain copies of the documents at his expense; however, Plaintiff should note that charges for the photocopies would be in accordance with Department of Corrections Policy DC-ADM 003 and its Procedure Manual. Plaintiff may choose only the documents he wishes to copy.

2. *Please provide copies of all Maintenance reports, or repairs done in RHU H Block to plug sockets, and status of plug sockets in RHU, H Block.*
2. **Response:** See Response 1, *supra*.

3. *Provide "a copy of certain medical records as evidence to support his claim and to show that medical department (sic.) deferred from medical orders from x-ray personnel to send Kim Smith to orthopedic specialist, along with other issues that are present in medical records, like the medical staff at SCI-Smithfield knew their (sic). Was not power in cells and failed to do anything about it to secure Kim Smith (sic) health safety and the use of the C-PaP device. See Plaintiff's Motion to Compel (doc. 67), pp 1-2.*

3. **Response:** The Corrections Defendants will provide to Plaintiff for his review and/or copying all medical documents, correspondence reports, diagnostic test results and x-ray reports the Department of Corrections has in its possession. Plaintiff will be given a reasonable amount of time to examine and inspect the above-referenced documents. Plaintiff must initiate this process by submitting an inmate request to the Litigation Coordinator at SCI-Coal Township, Kandis Dascani. Plaintiff, at the meeting with Ms Dascani or her designee, will have the option to obtain copies of the documents at his expense; however, Plaintiff should note that charges for the photocopies would be in accordance with Department of Corrections Policy DC-ADM 003 and its Procedure Manual. Plaintiff may choose only the documents he wishes to copy, or submit a cash slip in the amount of two-hundred ten dollars (\$210.00) for the entire record.

Respectfully submitted,
Office of General Counsel

BY:



John J. Talaber
Assistant Counsel
Department of Corrections
55 Utley Drive
Camp Hill, PA 17011
(717) 731-0444
Attorney Id. No 83279

Date: July 31, 2002

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

KIM SMITH, :
Plaintiff, :
v. : Civil No. 1:01-0817
JAMES MORGAN, et al., : (Judge William W. Caldwell)
Defendants. : (Magistrate Judge Malachy E. Mannion)

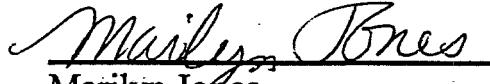
CERTIFICATE OF SERVICE

I undersigned hereby certifies that a copy of the Corrections Defendants' Response to Plaintiff's Request for Production of Documents in this matter was served upon the person(s) in the manner indicated below.

Service by first-class mail
addressed as follows:

Kim Smith, CT-2162
SCI-Coal Township
1 Kelley Drive
Coal Township, PA 17866-1020

James D. Young, Esquire
Lavery, Faherty, Young and Patterson, P.C.
301 Market Street
P.O. Box 1245
Harrisburg, PA 17108-1245



Marilyn Jones
Clerk Typist II

PA Department of Corrections
55 Utley Drive
Camp Hill, PA 17011
(717) 731-0444

Dated: July 31, 2002

EXHIBIT

Tables*

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**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

KIM SMITH, :
Plaintiff, :
v. : CIVIL ACTION NO. 1:01-0817
JAMES MORGAN, *et al.*, :
Defendants. :

UNSWORN DECLARATION OF LISA HOLLIBAUGH

I, Lisa Hollibaugh, hereby declare under penalty of perjury that the following statements are true and correct based upon my personal knowledge and belief:

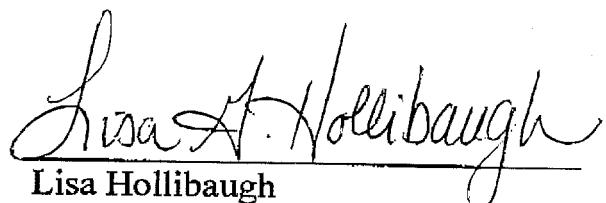
1. I am presently employed by the Commonwealth of Pennsylvania, Department of Corrections as the Acting Superintendent's Assistant at the State Correctional Institution at Smithfield ("SCI-Smithfield"). I have held this position for nine (9) months.
2. In addition to my acting duties, I am also Secretary to the Superintendent and I have held this position for six (6) years.
3. As Acting Superintendent's Assistant I am primarily responsible for the coordination of litigation within a correctional institution.
4. I am familiar with the Plaintiff, Kim Smith, who is currently serving a 8 year

to 20 year sentence for Murder at the State Correctional Institution at Coal Township.

5. At the request of Attorney Talaber, I was directed to ascertain the following:
 - a) if the department has a policy directing that the power in the Restricted Housing Unit ("RHU") be terminated for a period of seven (7) months;
 - b) whether the Maintenance Department had been to the RHU during the time period of February 10, 2000 to January 10, 2001 for any electrical work; and c) whether the Plaintiff submitted any inmate requests to the RHU staff or filed any grievances regarding the power being turned off in the RHU or the plug sockets in his cell.
6. On August 22, 2002, at my request, Sandra House, Clerical Supervisor, reviewed the RHU Visitor's logbook to ascertain whether the Maintenance Department had been to the RHU.
7. On August 22, 2002, I reviewed the Plaintiff's RHU file in the Security Office to ascertain whether he had submitted an inmate request to any RHU staff member regarding the plug sockets in his cell.
8. On August 22, 2002, I reviewed all of the Plaintiff's grievances.
9. Accordingly, based on my investigation and the information provided by the Ms. House, there is no such policy and the Plaintiff did not submit any

inmate requests or file any grievances regarding the power being turned off
in the RHU or the plug sockets in his cell.

Executed this 20th
day of December 19, 2002.



Lisa Hollibaugh
Acting Superintendent's Assistant
SCI-Smithfield

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KIM SMITH, :
Plaintiff, : Civil No. 1:01-0817
v. : (Judge William W. Caldwell)
JAMES MORGAN, et al., : (Magistrate Judge Malachy E. Mannion)
Defendants. :

CERTIFICATE OF SERVICE

I undersigned hereby certifies that a copy of the Corrections Defendants' Supplemental Supporting Documents in this matter was served upon the person(s) in the manner indicated below.

Service by first-class mail
addressed as follows:

Kim Smith, CT-2162
SCI-Coal Township
1 Kelley Drive
Coal Township, PA 17866-1020

James D. Young, Esquire
Lavery, Faherty, Young and Patterson, P.C.
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Clerk Typist II

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Dated: December 20, 2002